

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,  
Plaintiff,

v.

AMERISOURCEBERGEN DRUG  
CORPORATION. et al.,  
Defendants.

CIVIL ACTION NO. 3:17-01362

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CABELL COUNTY COMMISSION,  
Plaintiff,

v.

AMERISOURCEBERGEN DRUG  
CORPORATION. et al.,  
Defendants.

CIVIL ACTION NO. 3:17-01665

**EXPERT REPORT OF  
ROBERT J. RUFUS, DBA, CPA, CFF, CVA (Emeritus)**

August 27, 2020

Exhibit 1

- 4) Addressing the needs of special populations
- 4.6 Dr. Alexander’s plan fails to consider the Plaintiffs’ respective structures, functions and services provided to its citizens. Moreover, he fails to consider the different layers of government – local, state, and federal – and functions of external agencies such as SAMHSA, Medicaid, Medicare, private insurance companies, private and non-profit healthcare, and social services providers.
- 4.7 Based on my analysis of the City’s financial reports, I have determined that its functions include general municipal government (e.g., city hall operations, economic development, building inspections and zoning), basic utility services, and public safety (e.g. police and fire). Similarly, my analysis of the Cabell County Commission’s financial reports determined its main functions include general county government (e.g. courthouse, administrative services), support of elected officials, and public safety (e.g. Sheriff’s Department). Importantly, health care services *fall outside the functions of local government*.
- 4.8 The responsibility for health care is significant because such services constitute the majority of the interventions proposed by Dr. Alexander. Specifically, interventions for Opioid Use Disorder (OUD) treatment and family welfare services, which are administered by the West Virginia Department of Health & Human Resources, and federal programs such as Medicaid and Medicare, amount to \$2.1 billion<sup>s</sup> of the total \$2.6 billion quantified by Mr. Barrett.<sup>87</sup> Moreover, many of the proposed interventions are currently available to the Plaintiffs’ citizens via third parties, including the State of West Virginia.
- 4.9 A void in Dr. Alexander’s discussion is funding. To that end, he fails to consider available funding via federal and state grants for the treatment of substance use disorders, as well as for other programs he describes. The evidence would suggest that sufficient grant funding has been available to cover the successful response of intervention programs previously described, and neither county general funds or budget surpluses have been utilized or needed to pay for these programs.<sup>88</sup>
- 4.10 According to Lyn O’Connell (O’Connell Depo, p 63), federal funding for treatment and related services for opioid and substance use disorders has increased over the last four years,<sup>89</sup> and the state has actively allocated funds directly to addressing opioid abuse.
- 4.11 According to Christina Mullins,<sup>t</sup> as of December 20, 2019, the state of West Virginia “has

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<sup>s</sup> Sums the categories of 2B. Treating Opioid Use Disorder, 2C. Managing Complications Attributable to the Epidemic, and 4C. Families and Children.

<sup>t</sup> Commissioner of the Bureau of Public Health, WV DHHR.

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received \$147,356,427 in federal funds to address the opioid abuse epidemic. An additional \$58,908,723 in state funds have also been allocated since July 2016 to support the state's response to this crisis" (Mullins Depo., p. 107, Ex. 5). Importantly, these funds are disbursed through grants to localities within West Virginia (p 107). Federal grants received by West Virginia (2016 – 2020) for the treatment of OUD are illustrated in Table 4.1.

**Table 4.1**

**West Virginia Federal Grants Related to OUD or SUD Prevention and Treatment Through Fiscal Year 2020**

<b>Grant</b>	<b>Total</b>
State Targeted Response (STR) - Cures Act	\$ 12,096,567
SAMHSA State Opioid Response (SOR)	56,055,022
SAMHSA State Opioid Response (SOR) - Continuation/Supplement	14,630,361
Enhanced State Surveillance of Opioid-Involved Morbidity and Mortality	1,209,138
Overdose Data to Action	14,689,676
Prescription Drug Overdose Prevention for West Virginia	5,767,779
Public Health Emergency Response - Cooperative Agreement to Emergency Response - Public Health Crisis Response	3,654,254
Expansion of Naloxone Distribution to EMS Agencies and WV State Police and High Risk Selected Communities Pilot Prevention Programs	1,567,184
Comprehensive Abuse Site-Based Program	6,500,000
Emergency Department Surveillance of Nonfatal Suicide-Related Outcomes	293,970
Public Health Emergency Response - Cooperative Agreement to Emergency Response - Public Health Crisis Response (in-kind)	Unable to Locate
WV PDO Grant Contribution	2,434,442
Substance Abuse Prevention & Treatment Block Grant	34,326,828
WV Strategic Prevention Framework for Prescription Drug	1,900,897
Strategic Prevention Framework-Partnerships for Success	5,271,906
<b>Grand Total</b>	<b>\$ 160,398,024</b>

Sources: (1) <https://taggs.hhs.gov/SearchAward>, (2) <https://bja.ojp.gov/funding/awards/2019-ar-bx-k046>  
 (3) <https://nasadad.org/wp-content/uploads/2017/08/West-Virginia-Partnerships-for-Success-Program.pdf>  
 (4) SAMHSA SOR FAQs.pdf, (5) SOR Grant Summary 12-3.pdf (6) Deposition of Christina Mullins, July 14, 2020, Exhibit

4.12 Relatedly, Dr. Alexander fails to consider the expanded coverage for SUD and OUD treatment under the 1115 Substance Use Disorder Medicaid Waiver.<sup>90</sup> In 2017 alone, Medicaid paid for \$89.9 million in opioid use disorder related treatment.<sup>u</sup>

4.13 The amounts summarized above also do not include an additional \$84 million received by the State of West Virginia<sup>91</sup> from opioid litigation settlements. Roughly \$21 million of these funds have been distributed across the state (including Huntington) from the Ryan Brown Addiction Prevention Recovery Fund for treatment programs and additional treatment beds.<sup>v</sup> The state has used these funds to invest heavily in expanding

<sup>u</sup> Medicaid: The Linchpin in State Strategies to Prevent and Address Opioid Use Disorders. Manatt Health. March 2018.

<sup>v</sup> <https://wvpress.org/breaking-news/20-8m-opioid-settlement-distributed-treatment-beds-wv/>